

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN THE MATTER OF:

CHAPTER 13 CASE NO.:

WENDELL BROWN, SR.

19-10476-JDW

OBJECTION TO CONFIRMATION OF FIRST AMENDED PLAN

COMES NOW Locke D. Barkley, Chapter 13 Trustee, by and through counsel, and files this Objection to Confirmation of First Amended Plan (the “Objection”) and in support states as follows:

1. The Debtor¹ initiated this proceeding with the filing of a voluntary petition for relief on February 3, 2019. The Debtor filed a proposed First Amended Chapter 13 Plan (Dkt. #18) (the “Plan”) on April 23, 2019.

2. The Debtor is below median income and has proposed a plan term of sixty (60) months with a 100% distribution to nonpriority unsecured creditors.

3. Section 3.1(a) of the Plan provides for the payment of an ongoing mortgage and the arrears of one of two mortgage claims of Ditech Financial, LLC (“Ditech”). Sections 3.1(b) and 8.1 of the Plan provides that the claim of Ditech secured by property located on Lamar Road in Ashland, MS shall be paid in for in the Chapter 13 bankruptcy case of the Debtor’s spouse Albirdia D. Brown (Case No. 17-12178-JDW) (the “Wife’s Case”)². The plan in the Wife’s Case was confirmed to cure the prepetition arrears due to Ditech for both claims, with the Wife to maintain direct payments to Ditech. A copy of the Order Confirming the Debtor’s Plan, Awarding a Fee to the Debtor’s Attorney and Related Orders (the “Wife’s Confirmed Plan”)³ is attached hereto as

¹ The above-referenced Debtor or Debtors shall be referred to herein in the singular as Debtor unless specified otherwise (e.g. Debtor1 or Debtor2).

² The Debtor’s wife Albirdia D. Brown is represented in her bankruptcy case by Heidi S. Milam, Esq.

³ The Order Confirming the Debtor’s Plan, Awarding a Fee to the Debtor’s Attorney and Related Orders was entered in the Wife’s Case (Case No. 17-12178-JDW) on March 22, 2018, at Docket No. 46.

Exhibit “A.” On May 13, 2019, a Motion to Modify was filed in the Wife’s Case requesting “to have all claims from Ditech moved to [the Debtor’s] case for payment.” (Dkt. #68). A copy of the Motion to Modify is attached hereto as Exhibit “B.”

4. The treatment of the claims of Ditech in the Plan is duplicative and inconsistent with the treatment already provided for in the Wife’s Confirmed Plan and in the Motion to Modify filed in the Wife’s Case. The Plan cannot be administered as filed and, therefore, must be amended.

5. The Trustee requests that confirmation of the Plan be denied. Should the Debtor be delinquent in plan payments at the time of the hearing on this Objection, the Trustee also requests that the bankruptcy case be dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee prays that upon notice and hearing that this Court enter its order sustaining the Objection and for such other relief to which the Trustee and this bankruptcy estate may be entitled.

Dated: May 23, 2019.

Respectfully submitted,

LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE

BY: /s/ Melanie T. Vardaman
ATTORNEYS FOR TRUSTEE
W. Jeffrey Collier (MSB 10645)
Melanie T. Vardaman (MSB 100392)
6360 I-55 North, Suite 140
Jackson, Miss. 39211
(601) 355-6661
mvardaman@barkley13.com

CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, and I hereby certify that I either mailed by United States Postal Service, first class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Via Email and U.S. Mail

Heidi S. Milam, Esq.
Post Office Box 1169
Southaven, Mississippi 38671
heidi_s_m@yahoo.com
Attorney for Albirdia D. Brown

Dated: May 23, 2019.

/s/ Melanie T. Vardaman

MELANIE T. VARDAMAN